Mr. K. P. Kannan Nayar *(Secretary to Government)*—I second it.

Motion was put and carried.

The Cochin Rubber Control Act Amendment Bill.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—I beg to move that the Cochin Rubber Control Act Amendment Bill be taken up and passed.

Mr. K. P. Kannan Nayar *(Secretary to Government).*—I second it.

Motion was put and carried.

The Cochin Nayar Act Amendment Bill.

Mr. President.—The question is that sections 62 to 65 stand part of the Bill.

Sections 62 to 65 were put and carried.

Mr. A. Eachara Menon *(Chittur Rural).*—I beg to move the following amendment to the Cochin Nayar Act Amendment Bill:—

Substitute the following for section 66 of the Bill:—"Their registration as impartible tarawads under Chapter VIII of Act XIII of 1095 will become cancelled on the date on which this Act comes into force. But these tarawads may, with the consent of the majority of their members, become impartible".

Mr. A. Sivarama Menon *(Mulakunnathukavu).*—The word 'these' may be substituted by 'all'.

Mr. P. Govinda Menon *(Adur).*—I fear, Sir, that the amendment will not read properly, even if the amendment suggested by the Hon'ble Member for Mulakunnathukavu is introduced. Clause 66 is the first clause in chapter VIII. At present it reads like this:—"All tarawads whose registration as impartible tarawads under Chapter VIII of Act XIII of 1095 remains in force on the date on which this Act comes into force shall be exempt from the operation of the sections as to partition in this Act". Now, as suggested by Mr. Sivarama Menon, the section will read like this:— "Their registration as impartible tarawards under Chapter VIII of Act XIII of 1095 will become cancelled on the date of which this Act comes into force. But all tarawads may, with the consent of the majority of their members, become impartible".

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That is the first section of Chapter VIII. I say that even if you want to bring that idea some other amendment will be necessary. There will be no meaning if it is introduced as it is.

Mr. President—That is why he gave the idea in Malayalam. Supposing it is put like this, will it be all right? "The registration of tarawads as impartible under Chapter VIII of Act XIII of 1095 will become cancelled on the date on which this Act comes into force. But any tarawad may with the consent of the majority of their members become impartible".

Mr. P. Govinda Menon *(Adur)*.—It will be all right.

Mr. K. Achyuta Menon *(Diwan Peishkar)*.—I would suggest "registered impartible" instead of 'impartible'.

മിസ്റ്റർ ടി. കെ. നായർ (*Pazhyannur*).— സർ, ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നു. സെലക്ട് കമ്മറ്റിയിൽ ഈ വിഷയത്തെപ്പറ്റി വളരെ ഗാഢമായി ആലോചിച്ചതിനുശേഷം ഇതിനെ സംബന്ധിച്ച് എന്തെങ്കിലും ഒരു ഭേദഗതി ചെയ്യാതിരിക്കുകയാണു നല്ലത് എന്നാണു തീർച്ചയാക്കിയത്. ഈ ഭേദഗതിയിൽ അംഗങ്ങളിൽ ഭൂരിപക്ഷവും ചേർന്നാൽ രണ്ടാമതും റജിസ്റ്റർ ചെയ്യാമെന്നു പറഞ്ഞിട്ടുണ്ട്. അധികപക്ഷമെന്നൊ അല്ലെങ്കിൽ മൂന്നിൽ രണ്ടു ഭാഗമെന്നൊ, ഇങ്ങിനെയുള്ള പല സംശയങ്ങളും പലതരത്തിലും സെലക്ട് കമ്മിറ്റിയിൽ ആലോചിച്ചു. അവസാനത്തിൽ ഇതു തൊട്ടാൽ വളരെ അപകടത്തിലാകുമെന്നാണു സെലക്ട് കമ്മറ്റിക്കു ബോദ്ധ്യം വന്നതു്. രണ്ടു പക്ഷം ഇതിലുണ്ട്. അതില്ലെന്നു പറയുവാൻ ഞാൻ തയ്യാറില്ല. ആദ്യകാലത്തു് ഇതു പാസായ അവസരത്തിൽ റജിസ്റ്റർ ചെയ്തിട്ടുള്ളതും പാർട്ടിബിൾതറവാടിൽനിന്നു തെളിവു കിട്ടീട്ടുള്ളതു് അതും പാർട്ടിബിൾ ആക്കണമെന്നാണു്. എന്നാൽ മറിച്ചും അഭിപ്രായമുണ്ട്. ഇതു രണ്ടുംകൂടി ആലോചിച്ചതിനുശേഷം സെലക്ട് കമ്മിറ്റിയിൽ ഏതാണ്ടു ഒരു യോജിപ്പായ അഭിപ്രായം ഈ ഭേദഗതി യാതൊരുവിധത്തിലും ചെലുത്തേണ്ടതില്ലെന്നാണു്. അതുകൊണ്ടു ഞാൻ സെലക്ട് കമ്മിറ്റിയിലെ ഒരു മെമ്പറായിരുന്ന സ്ഥിതിക്കും ഇതിന്റെ വൈഷമ്യങ്ങളും മുഴുവൻ കമ്മിറ്റി ഗാഢമായിട്ട് ആലോചിച്ചിട്ടുള്ള സ്ഥിതിക്കും എനിക്ക് ഇതിനെ എതിർക്കാതെ തരമില്ല.

Mr. A. Sivarama Menon *(Mulakunnathukavu)*.—I support this amendment. I attach the utmost value to the opinion expressed by the member of the Select Committee who examined witnesses. But I cannot agree with the view that people following the Marumakkathayam system are today all in favour of partibility. That certainly is not the evidence adduced before the Committee. The evidence was divided. There was some evidence in favour of impartibility. The Hon'ble Member for

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Pazhayannur very well knows that in his constituency there are a few tarawads yet that find some virtue in impartibility.

Mr. T. K. Nayar *(Pazhayannur)*.—Sorry. All there are partitioned.

Mr. A. Sivarama Menon *(Mulakunnathukavu)*.—Impartible tarawads have not, I believe, altogether disappeared from Pazhayannur yet. It may be useful for us to know what was done with regard to a similar legislation in British India. I ask the Hon'ble Member whether he is not aware that the principle of outright obliteration of marumakkathayam has not been recognised by the Malabar Act. What does that indicate? It indicates that the people, as a whole, are not prepared to do away with impartibility completely. I therefore support this amendment.

Mr. A. Sankara Menon *(Tripunithura)*.—I oppose the amendment. The amendment contains two parts. The first part wants the cancellation of registration of impartible tarawads. A bare majority of tarawad members may be inclined to cancel and to do away with impartibility. But they are not able to do so for want of a two thirds majority which is now required. If the cancellation is effected, the tarawards may not have a majority to have it registered again as impartible. Therefore the registration of certain tarawads will go by the mere fact that this amendment is accepted. That is the effect of the first portion. Some members of some of the impartible tarawads desire that such a thing should be done. With regard to the second part the object is entirely different. The object is to change the existing law. Under the previous law a certain period was given within which tarawads had to be registered, as impartible. That period expired and no new impartible tarawad can be created even though all the members of the tarawad agreed to it. Creation of new impartible tarawads is the change that is now sought to be introduced, by the second portion. To this I may say certainly that almost all the witnesses examined were dead against. There is no reason to introduce a change in the existing law. As the provisions now stand, the previous law is given full effect to. The impartible tarawads now existing are retained as impartible and they can be converted into partible. The only difference is that in the previous Act it was necessary to have a two-thirds majority of every tawazhi but the matter has been made a little easier; it is necessary to have only a two thirds majority of all the major members of the Tarawad.

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Mr. A. Eachara Menon *(Chittur Rural).*—Why was that done?

Mr. A. Sankara Menon *(Tripunithura).*—That was fully explained when the Select Committee went into that matter. It is impossible to see which all thavazhies are meant to be taken into account. There may be thavazhies and sub-thavazhies and it is impossible to interpret the provision in a reasonable manner. But if we say two-thirds of the members of the tarwad it is an easy matter and many are in favour of such a change. I submit there is absolutely no reason why any change in the law should be advocated. Under the law as it is now being enacted there is no necessity for cancelling the registration of an impartible tarwad without consulting the members of the various impartible tarwads. They have not been consulted; there is no justification to introduce a change. If it is necessary to go into that matter, it is necessary to take evidence of the members of the various tarwads which have already been registered under the previous Act. That will involve unnecessary delay and cost. They are given an opportunity to cancel the registration. I am against this amendment.

* **Dr. A. R. Menon** *(Pallippuram)* —Mr. President, Sir, there are two points that I wish to bring to the notice of the House. One is we have included a clause that those families who are already registered shall remain so unless by a majority of the whole family irrespective of the tarwad, irrespective of the thavazhy, a two-thirds majority, come to the conclusion that partition is necessary, they shall remain as impartible. Now, the committee is anxious that they should not meddle with the section. Those who have agreed to live together should not be given an additional inducement to disrupt themselves. Therefore, we do not accept that. The onus of responsibility will rest with the two-thirds majority to declare that this impartibility shall cease. Here we are not giving an additional inducement that all registered tarawads should cease to exist and they should begin anew. Then the second one—of course I agree there—is if a new family wanted to register themselves as imparitible the law should not stand in their way. There should not be a provision that because you have ceased to be a registered family you shall not be allowed to be registered as an impartible family. The object must be that they should have absolute freedom to live together or to live separate. I

* Speech not corrected by the Hon'ble Member.

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do not think that this amendment can be supported, because there an additional inducement is given. Because all the registered families cease to be registered and it will be very difficult for those families to get themselves registered afresh. Therefore, the committee thought that it would not be proper for them to lend a hand to this division to those families which are living together. For these reasons the first part of the amendment is unacceptable.

*Mr. P. Govinda Menon *(Adur)*.—I too would like to make a few remarks about the amendment. After the clarification of the whole matter by the Hon'ble Deputy President, my own remarks about it are not necessary with regard to the first point. With regard to the 2nd point of the amendment, that is to say, the question of granting freedom to families to register anew, I have to offer a few remarks as to what was said by the Hon'ble Member for Pallippuram. The question is not whether we should give freedom to members of the family to register the families anew. They have got perfect freedom to live together. The question is whether we should give them freedom to later generations to come to continue in impartible tarwads. If even after the passing of this Act, members of the family do want to live together, they may live together. There is nothing prohibiting them from doing so. There is nothing in the Act or in the law which disallows any member of a Nair Tarwad to disrupt the family and take his partition from the family properties. If the amendment is passed, those members who are existing now will be given freedom to register their tarwad as impartible tarwads and thereby fetter people who come later—minors or generations who come into existence. Whether that freedom should be given to these tarawads when the general law is otherwise is the only question. There will also be cases where the majority will be able to work tyranny upon the minority when that right is given. For example we take a tarawad where there are two thavazhies. It has to be registered as an impartible tarawad. Suppose one thavazhi or the majority of the members of that tarawad do not want to grant the rights of partition and the minority forming the other thavazhi wants the other way. There will be some difficulty in working out the system. So we thought that tarawads which are already registered as impartible tarawads, can continue as such. The question is whether the legislature should intervene in the

* Speech not corrected by the Hon'ble Member.

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realm of the domestic affairs of a few families in this State by legislation. There is a general statute law and by amending that law, you want to give retrograde powers to certain families. That is a different question. There is a vast qualified difference between the two things. Therefore, while the first part of the amendment is unnecessarily interfering with the internal family arrangement of a few families, the second part of the amendment is going further and changes the law in order to enable a few families to register them as impartible tarawads. In the first case, there is no fettering.

Dr. A. R. Menon *(Pallippuram).*—They have already been fettered.

Mr. P. Govinda Menon *(Adur)*—As the legislation seeks to interfere with the family affairs of certain families I oppose this amendment.

Mr. A. Narayana Menon *(Vyttila).*—Sir, I too oppose this amendmnent. I do not contend that there is any tyranny. What is the modern tendency? What is it that we have seen from 1095 till this day? Many impartible tarawads have become partible. On the other hand there was absolutely no desire expressed to increase the numbers of impartible tarawads. When we legislate, we have to legislate, according to the desires of the community that is to be affected by the legislation. Going by that principle, what I submit is that the latter portion of the amendment is quite uncalled-for.

With regard to the former part, the Select Committee did not go very minutely into the question. That the hon'ble the Deputy President has explained. We did not examine members of all the impartible tarawads in the State. Unless such evidence is taken, it is not proper for us to say that from today all impartible tarawads should become partible and that they become impartible after the Act is passed by a fresh registration. I submit that the first part takes away a right; the second part of the amendment thrusts upon the Nair society a right which the society never desires. So on these two grounds, I oppose the amendment.

Mr. President.—The amendment of Mr. Eachara Menon will read as follows:—

"The registration of a tarawad as impartible under Chapter VIII of Act XIII of 1095 will stand cancelled from and after the date on which this Act comes into force, provided that any such tarawad may, with the consent of the majority of the major members, get itself re-registered as impartible by application to the Diwan Peishkar."

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Mr. A. Sivarama Menon *(Mulakunnathukavu).*—'Such' need not be there. With regard to re-registration it may be given to all. No restriction need be placed by the word 'such'.

Mr. President.—So far as Mr. Eachara Menon's amendment is concerned, it is the correct form.

Mr. A. Sivarama Menon *(Mulakunnathuka.vu).*—I am not in favour of the amendment as it is. It is better to oppose the amendment in view of the opinion expressed here. I was only trying to give a chance to any tarwad that wanted to get itself registered as impartible.

Mr. A. Eachara Menon *(Chittur Rural).*—I do not press it.

Amendment was by leave withdrawn.

Section 67 was put and carried.

Sections 68 to 75 were put and carried.

Section 1 was put and carried.

The Title and Preamble were put and carried.

Mr. P. Govinda Menon *(Adur).*—Sir, I move that the Bill may be taken up and finally passed tomorrow.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—I second it.

Motion was put and carried.

The Cochin Marumakkathayam Bill.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—Mr. President, Sir, I beg to present the Select Committee report on the Cochin Marumakkathayam Bill* and move that the bill as reported by the Select Committee be taken up for consideration:

In doing so, I wish to make a few observations. The Marumakkathayi community forms a good percentage of the population of the State. The different sections of the community following marumakkathayam are the Nairs, the

* Vide Appendix 1.

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